

**AGENDA  
SPECIAL CALLED MEETING  
WEAKLEY COUNTY LEGISLATIVE BODY  
JUNE 4, 2009**

Call to Order at 5:00 p.m.  
Invocation  
Pledge to the Flag  
Roll Call

**NEW BUSINESS:**

RESOLUTION No. 2009-40

Resolution to Legally Challenge the Annexation of Certain County Property by the City of Martin, Tennessee.

NEXT REGULAR MEETING

June 25, 2009 at 5:30 p.m. at the Weakley County Courthouse

ADJOURNMENT

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## WEAKLEY COUNTY LEGISLATIVE BODY SPECIAL CALLED MEETING

June 4, 2009

The Weakley County Legislative Body met in a special called session on June 4, 2009 at 5:00 pm at the Weakley County Courthouse in the County Commission Room. Chairman Phebus called the Meeting to Order.

Chairman Phebus gave the Invocation.

All members present gave the Pledge of Allegiance to the Flag.

County Clerk Pat Scarbrough called the Roll with 16 members present, two members, Commissioner Joe Farmer and Commissioner Dale Overton was absent. Commissioner Joe Farmer answered Roll Call at 5:05 pm.

### NEW BUSINESS:

**RESOLUTION NO. 2009-40:** Resolution to Legally Challenge the Annexation of Certain County Property by the City of Martin, Tennessee.

Chairman Phebus called for a Motion to place Resolution No. 2009-40 on the Floor. Commissioner Jones made the Motion and Commissioner Owen placed a second to the Motion. Discussion was called for and Commissioner Bell was recognized. Commissioner Bell questioned if it would be permissible to ask a few questions of Mr. Faron Collins, General Manager WCMES. There were comments from Commissioner Bell as to why Mr. Collins did not attend any of the public hearings held by the City of Martin concerning this issue. Mr. Collins commented that he did not feel that he should attend, since the WCMES Board meets once a month, and that they had not met to discuss their feelings on this issue at the time of the hearings. Chairman Phebus made comments to bring everyone up to speed concerning the City of Martin annexing the WCMES property on the second and final reading and consideration on May 11, 2009. Parties that wanted to contest this had thirty days from the final reading to file suit, this meant the owners that wanted to contest the annexation had until June 10, 2009. Upon activation of a majority of membership of the County Commission Chairman Phebus was compelled to call a Special Meeting for this purpose. The reason that the County is involved in this is because the land that the Electric System is located on is deeded to Weakley County for the benefit of WCMES. The County owns the land and therefore we are the party to contest the annexation.

Commissioner Bell commented on the cost to construct the sewer. Commissioner Bell commented that in recent conversations with the Mayor of Martin that the City had offered to pay for this expense. Mr. Collins commented that they had this bid separately in hopes that the City of Martin might reimburse this expense. There was further



discussion concerning reimbursement and that there would be a need to go before the Board and Alderman to address this issue and it would be up to the City on whether it would be reimbursed. Commissioner Bell commented that with some discussion that all of this issue could have been avoided.

Commissioner Wright questioned if it is up to the County or the Electric Company to go before the City of Martin. Chairman Phebus commented that the owner of the property would be the proper party. Commissioner Owens commented that his problem was with the one-foot wide strip on the State Route 22 right-of-way up to the WCMES property and then taking 500 feet. He commented that if they had taken 500 feet all the way out to WCMES property that this would have been their legal right, but by taking one-foot all the way to the WCMES property that they just wanted to annex that one property. Commissioner Wright commented on whether this one-foot was part of the prescribed way to do business or is this outside the ethical methods of annexation. Commissioner Taylor commented that he felt you would find a lot of Cities that annex in this method, better known as strip annexing. Commissioner Wright commented that it was his understanding that this was the way and this was part of the Martin Growth Boundary area. Commissioner Medling commented that if this was the case, then why did they not get the other property. Commissioner Medling commented that this does not promote goodwill or better friendships among Weakley County and that he would hope that the Commission would unanimously support this Resolution and defeat this for the benefit of Weakley County.

Chairman Phebus commented hypothetically if this building had been built in the City limits of Martin, the in-lieu of tax calculations would have been the same; how would the in-lieu of tax calculations affect the bottom line of the WCMES and the ratepayers of Weakley County? Would the rates have gone up to cover this cost or would the electric company have covered the cost in this bottom line. Mr. Collins commented that he could not say whether the rates would have gone up because of this, but like any other increase in expense to the electric company, at some point, increases in expenses would cause rate increases to become relevant. Had we built inside of the City limits, we would not have had any extra expenditure up front to provide our self with services that the City would have provided. Commissioner Bell questioned if WCMES pays in-lieu of taxes to the City of Martin at this time. Mr. Collins commented that yes they do, but he did not know off hand the amount of in-lieu taxes. There were further comments from Mr. Collins as to how the amount paid was determined, buildings, materials owned by the electric company, poles, pieces of wire and transformers all are under the same calculations, this would stay the same, but you would subtract out the cost of materials we are moving and the cost of building the property etc.

Commissioner Westbrook commented on general statements made, cities all over the State do strip annexation, but not one foot on State highway right-of-ways, they do strip annexation to take in beer establishments, quick stops, car dealerships, and etc. 200 feet to 500 feet normally. Commissioner Westbrook commented that he had not heard of



another case where any City just took in a foot. Commissioner Taylor commented that Commissioner Westbrook might be right, but what has been said concerning annexing for the revenue, that is normally what strip annexing is for, it doesn't matter whether it is two feet or fifty feet, and they are doing it for the revenue. Commissioner Vincent commented on cul-de-sac annexation and if this is legal.

Chairman Phebus questioned Chris Mathis, City Recorder for the City of Martin, if the City of Martin consulted with any legal staff, or anyone else to determine whether this one-foot annexation was in fact a legal annexation? Mr. Mathis commented that it did go through a building inspector, Billy Stout, and he consulted with a regional planner, they researched this and said that it was legal. Mr. Mathis commented that this was all he really knew concerning the subject.

Commissioner Stewart commented that if the whole purpose was to go out and get revenue, then why not take in everybody out to the WCMES property? His question to the regional planner was, maybe this is legal but is it ethical? Did the planner say yes you can do it, but did they advise him that this was okay, or did they have advise from other agencies.

Commissioner Taylor commented that the one thing that has been overlooked when you have an annexation of a City, the plan is presented to the planning commission, the planning commission meets at least twice to discuss any questions or concerns before it is ever brought to a vote. Commissioner Taylor talked with the Chairman of the Planning commission and no one, not the County Mayor, or none of the County Commissioners attended to raise any objections to the annexation. This was presented to the City Board as a Public Reading explaining what was going to happen, there was an informal board meeting with no one from the County Commission nor the electric company, present for these meetings. The Public Hearing was held open to the Public, advertised in the paper and no one came and expressed any concern. Chairman Phebus commented that the law is such that after this action has been taken there is a thirty day grace period for anybody that wants to protest this action as provided by the statutes of Tennessee and this is the purpose of this meeting to determine if the County wants to proceed on these lines.

Commissioner Taylor questioned why someone from the Weakley County Commission did not go to the Public hearings and place their objections. Commission Stewart questioned if anyone in this room knew that the County was on the deed before this came up 10 days to two weeks ago. Commissioner Taylor commented on his concern that this governing board that has five towns and this county commission is going to vote to bring legal action against a municipality and he would not want to vote to bring action against any town in the county. Commissioner Taylor further commented that the electric company knew and we have a board member on the County Commission that is on the Electric Board. Commissioner Westbrook commented that Commissioner Taylor knew about the meeting, why did he not go and protest this action. Commissioner Taylor commented that he was not against the annexation. Commissioner Westbrook questioned



if he was not against the rate payers of this County paying the City of Martin taxes. Commissioner Taylor commented that he was not going to vote to bring legal action against the constituents of Martin that he represent, and he would not do that for Dresden either.

Chairman Phebus commented that he respects the City of Martin or any Cities right to annex property, by a legal method for future growth. There are issues involved with this particular annexation and that there are questions that need to be answered. If it takes contesting this to determine if this type of annexation is legal and suitable in the State, then Chairman Phebus commented that he would not have a problem in voting for this.

Commissioner Wright commented that the door was still open for the City of Martin to pay for the sewer system. Was there an invitation still open for the electric company to come before the City of Martin and Alderman to request reimbursement and negotiate cost to install the sewer line to WCMES property and if so why had the electric company not appeared before this board.

Commissioner Vincent questioned County Attorney Washburn if the one-foot strip is legal. County Attorney Washburn commented that he had researched this issue and that there are significant legal problems as for the legality of annexation for the City of Martin.

Commissioner Westbrook called for the Question. Commissioner Taylor questioned if the Electric system board could sue, and not the county board, the owner of the land. Chairman Phebus commented that since they do not own the land, they couldn't take legal action. Commissioner Taylor questioned that when the condemnation suit was filed, this was property the electric company was taking by eminent domain and this would be property that the County would own, the electric company brought the condemnation suit against the land owner, then why could they not bring this suit against the City of Martin, instead of this board. County Attorney Washburn commented that he had not researched this question but that he would say the Weakley County Municipal Board does have the right to bring eminent domain condemnation suits. There were other comments concerning strip annexing that the County Attorney commented on.

Mr. Collins commented that the Mayor of Martin had known all along, although Mr. Collins did not go to any of the public meetings, that he was personally against this annexation and that Mr. Collins did not think this was a good idea and also that some of the board members did not think it was a good idea either. Commissioner Westbrook commented that they were very much unhappy, to the extent the Dresden Enterprise put in the paper the City of Martin had said the board had some questions concerning the annexation.

Question was called. The County Clerk, Pat Scarbrough, called the Roll with 14 yeas, 3 nays and one absent. The Resolution was adopted.

Chairman Phebus announced that the next Regular Meeting would be held on Thursday, June 25, 2009 at 5:30 pm at the Weakley County Courthouse.

Commissioner Sinclair made a motion to adjourn and Commissioner Owen placed a second to the Motion. A voice vote was taken and the Weakley County Legislative Special Called Meeting stood adjourned at 5:32 pm.

ATTEST:

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Pat Scarbrough, Weakley County Clerk